

AMENDED IN ASSEMBLY APRIL 13, 2005

AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 657**

**Introduced by Assembly Member Karnette**

February 17, 2005

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An act to amend Section 4076 of the Business and Professions Code, relating to pharmacies.

### LEGISLATIVE COUNSEL'S DIGEST

AB 657, as amended, Karnette. Pharmacies: prescription containers: labels.

The existing Pharmacy Law provides for the licensing, regulation, and enforcement of the practice of pharmacy by the California State Board of Pharmacy. Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

The Pharmacy Law prohibits a pharmacist from dispensing a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with, among other things, the condition for which the drug was prescribed if requested by the patient and if the condition is indicated on the prescription.

This bill would eliminate the requirement of the labeling requirement pertaining to the condition for which the drug was prescribed, and would instead require the container to be labeled with the intended purpose, *as defined*, of the drug, ~~if as set forth on the prescription, and would require that~~ the purpose ~~is~~ be listed on the prescription, ~~unless the physician who prescribes the drug or the patient receiving the drug specifically requests that the information be~~

omitted. By revising the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4076 of the Business and Professions  
2 Code is amended to read:  
3 4076. (a) A pharmacist shall not dispense any prescription  
4 except in a container that meets the requirements of state and  
5 federal law and is correctly labeled with all of the following:  
6 (1) Except where the prescriber or the certified nurse-midwife  
7 who functions pursuant to a standardized procedure or protocol  
8 described in Section 2746.51, the nurse practitioner who  
9 functions pursuant to a standardized procedure described in  
10 Section 2836.1, or protocol, the physician assistant who functions  
11 pursuant to Section 3502.1, or the pharmacist who functions  
12 pursuant to a policy, procedure, or protocol pursuant to either  
13 subparagraph (D) of paragraph (4) of, or clause (iv) of  
14 subparagraph (A) of paragraph (5) of, subdivision (a) of Section  
15 4052 orders otherwise, either the manufacturer's trade name of  
16 the drug or the generic name and the name of the manufacturer.  
17 Commonly used abbreviations may be used. Preparations  
18 containing two or more active ingredients may be identified by  
19 the manufacturer's trade name or the commonly used name or  
20 the principal active ingredients.  
21 (2) The directions for the use of the drug.  
22 (3) The name of the patient or patients.  
23 (4) The name of the prescriber or, if applicable, the name of  
24 the certified nurse-midwife who functions pursuant to a  
25 standardized procedure or protocol described in Section 2746.51,  
26 the nurse practitioner who functions pursuant to a standardized  
27 procedure described in Section 2836.1, or protocol, the physician

1 assistant who functions pursuant to Section 3502.1, or the  
2 pharmacist who functions pursuant to a policy, procedure, or  
3 protocol pursuant to either subparagraph (D) of paragraph (4) of,  
4 or clause (iv) of subparagraph (A) of paragraph (5) of,  
5 subdivision (a) of Section 4052.

6 (5) The date of issue.

7 (6) The name and address of the pharmacy, and prescription  
8 number or other means of identifying the prescription.

9 (7) The strength of the drug or drugs dispensed.

10 (8) The quantity of the drug or drugs dispensed.

11 (9) The expiration date of the effectiveness of the drug  
12 dispensed.

13 ~~(10) The intended purpose of the drug, if the purpose is listed~~  
14 ~~on the prescription, unless the physician who prescribes the drug~~  
15 ~~or the patient receiving the drug specifically requests that the~~  
16 ~~information be omitted.~~

17 *(10) The intended purpose of the drug or drugs, if indicated on*  
18 *the prescription. The prescription shall indicate the purpose of*  
19 *the drug or drugs, unless after consulting with the physician and*  
20 *surgeon, the patient requests that the information be omitted. As*  
21 *used in this section, "purpose" means a concise description of*  
22 *the symptom or symptoms that the drug is, or drugs are, intended*  
23 *to treat.*

24 (11) (A) Commencing January 1, 2006, the physical  
25 description of the dispensed medication, including its color,  
26 shape, and any identification code that appears on the tablets or  
27 capsules, except as follows:

28 (i) Prescriptions dispensed by a veterinarian.

29 (ii) An exemption from the requirements of this paragraph  
30 shall be granted to a new drug for the first 120 days that the drug  
31 is on the market and for the 90 days during which the national  
32 reference file has no description on file.

33 (iii) Dispensed medications for which no physical description  
34 exists in any commercially available database.

35 (B) This paragraph applies to outpatient pharmacies only.

36 (C) The information required by this paragraph may be printed  
37 on an auxiliary label that is affixed to the prescription container.

38 (D) This paragraph shall not become operative if the board,  
39 prior to January 1, 2006, adopts regulations that mandate the  
40 same labeling requirements set forth in this paragraph.

1 (b) If a pharmacist dispenses a prescribed drug by means of a  
2 unit dose medication system, as defined by administrative  
3 regulation, for a patient in a skilled nursing, intermediate care, or  
4 other health care facility, the requirements of this section will be  
5 satisfied if the unit dose medication system contains the  
6 aforementioned information or the information is otherwise  
7 readily available at the time of drug administration.

8 (c) If a pharmacist dispenses a dangerous drug or device in a  
9 facility licensed pursuant to Section 1250 of the Health and  
10 Safety Code, it is not necessary to include on individual unit dose  
11 containers for a specific patient, the name of the certified  
12 nurse-midwife who functions pursuant to a standardized  
13 procedure or protocol described in Section 2746.51, the nurse  
14 practitioner who functions pursuant to a standardized procedure  
15 described in Section 2836.1, or protocol, the physician assistant  
16 who functions pursuant to Section 3502.1, or the pharmacist who  
17 functions pursuant to a policy, procedure, or protocol pursuant to  
18 either subparagraph (D) of paragraph (4) of, or clause (iv) of  
19 subparagraph (A) of paragraph (5) of, subdivision (a) of Section  
20 4052.

21 (d) If a pharmacist dispenses a prescription drug for use in a  
22 facility licensed pursuant to Section 1250 of the Health and  
23 Safety Code, it is not necessary to include the information  
24 required in paragraph (11) of subdivision (a) when the  
25 prescription drug is administered to a patient by a person licensed  
26 under the Medical Practice Act (Chapter 5 (commencing with  
27 Section 2000)), the Nursing Practice Act (Chapter 6  
28 (commencing with Section 2700)), or the Vocational Nursing  
29 Practice Act (Chapter 6.5 (commencing with Section 2840)),  
30 who is acting within his or her scope of practice.

31 SEC. 2. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution  
33 because the only costs that may be incurred by a local agency or  
34 school district will be incurred because this act creates a new  
35 crime or infraction, eliminates a crime or infraction, or changes  
36 the penalty for a crime or infraction, within the meaning of  
37 Section 17556 of the Government Code, or changes the

- 1 definition of a crime within the meaning of Section 6 of Article
- 2 XIII B of the California Constitution.

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